

FILED

IN THE CIRCUIT COURT OF MARSHALL COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION

JOSEPH M. RUCK

COVESTRO, LLC
Plaintiff,

v.

Civil Action No.: 18-C-202
Presiding Judge: Wilkes
Resolution Judges: Carl and Nines

AXIAL CORPORATION,
ALLTRANSTEK, LLC, and
RESCAR COMPANIES,
Defendants,

and

AXIAL CORPORATION,
Third-Party Plaintiff,

v.

SUPERHEAT FGH SERVICES, INC.,
Third-Party Defendant.

---CONSOLIDATED WITH---

AXIAL CORPORATION,
Plaintiff,

v.

Civil Action No. 18-C-203
Presiding Judge: Wilkes
Resolution Judges: Carl and Nines

ALLTRANSTEK LLC, RESCAR, INC.
t/d/b/a RESCAR COMPANIES, and
SUPERHEAT FGH SERVICES, INC.,
Defendants.

**ORDER GRANTING COVESTRO, LLC'S MOTION FOR A STATUS CONFERENCE
AND DAY ORDER FROM JANUARY 11, 2022 STATUS CONFERENCE**

This matter came before the Court this 11th day of January, 2022 upon Plaintiff Covestro, LLC's Motion for a Status Conference. The request was hereby GRANTED and the parties came on for status. Counsel for all parties appeared telephonically.

1. Conference was had regarding the conclusion and outcome of the related or "essentially identical" lawsuit and jury trial which occurred in the Court of Common Pleas of Allegheny County, Pennsylvania, alleging the same causes of action stemming from the chlorine rupture and release as alleged in the instant civil action. See Pl's Mot., p. 1. The Court notes it was provided a copy of the completed verdict slip from the Pennsylvania trial, attached as Exhibit A to the instant motion.

2. Conference was had regarding the status of post-trial motions which are currently pending in the Pennsylvania action. Counsel averred that such motion(s) were set for argument before Judge Ward on February 10, 2022 and a decision is anticipated to be issued at a later date.

3. Conference was had regarding scheduling a trial in the instant civil action. Counsel estimated three weeks would be needed for trial. The office of the undersigned will need to coordinate with Marshall County regarding courtroom reservation for that period of time. After a trial date is set, counsel agreed to confer and agree upon dates and deadlines for pretrial filings, including motions *in limine*, and will submit an agreed order to the undersigned.

4. Conference was had regarding resolution or mediation with the Resolution Judge in this civil action. Counsel for Covestro averred he would be open to and prefer consulting with Resolution Judge Carl to see if the parties can resolve the matter in lieu of trial.

5. Conference was had regarding the filing of motions in the instant civil action, including motions for summary judgment, due to the new issue of the Pennsylvania verdict. The

Court invited the parties to file all motions they deem appropriate as to the Pennsylvania verdict's effect on this case. Recognizing counsel's obligations with post-trial motions briefing in the Pennsylvania action and other mutli-week trials, the Court set the following briefing schedule:

6. Any motion, including motions for summary judgement, which counsel deems appropriate for the Court's consideration with regard to the Pennsylvania verdict's effect on this case shall be filed by April 8, 2022.

7. Thereafter, non-moving parties shall file written responses and proposed orders within 15 days of the date the motion is filed and serve copies of the same on the moving party. The moving party shall thereafter have 10 days to file a rebuttal memorandum, if desired. Thereafter, the Court will rule upon the motion on the pleadings and record or schedule a hearing if the Court deems it necessary.

8. All original proposed orders and copies of motions and/or memoranda shall be sent directly to the Judge via Carol.Miller@courtswv.gov with a courtesy copy to both Business.Court@courtswv.gov and Tessa.Bowers@courtswv.gov. Copies of the proposed orders and the original motions and memoranda shall be filed with the Clerk of the Circuit Court.

9. The Status Hearing was then adjourned.

The Clerk shall enter the foregoing and forward attested copies hereof to all counsel, and to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

January 11, 2022
date of entry


JUDGE CHRISTOPHER C. WILKES
JUDGE OF THE WEST VIRGINIA
BUSINESS COURT DIVISION